

REMARKS

Applicants appreciate the thorough examination of the present application as evidenced by the Office Action mailed June 18, 2007 (hereinafter "Office Action"). In response, Applicants have amended many of the claims to remove the use of the construct "and/or" to eliminate any potential ambiguity in interpreting the claimed subject matter. In addition, Applicants respectfully submit that the cited reference fails to disclose or suggest, at least, the recitations of independent Claims 1, 19, 37, and 55, as amended. Accordingly, Applicants submit that all pending claims are in condition for allowance. Favorable reconsideration of all pending claims is respectfully requested for at least the reasons discussed hereafter.

Section 112 Rejections

Claims 1 - 55 stand rejected under 35 U.S.C. § 112 as being indefinite. In particular, the Office Action alleges that the use of the phrase "and/or" renders the claims vague. (Office Action, page 2). In response, to remove any possibility of confusion, Applicants have amended the claims to remove the use of "and/or" and replaced it with "at least one of." Applicants respectfully submit that the claims satisfy the requirements of 35 U.S.C. § 112.

Independent Claims 1, 19, 37, and 55 are Patentable

Independent Claims 1, 19, 37, and 55 stand rejected under 35 U.S.C. § 102(e) as being anticipated by U. S. Patent No. 6,901,446 to Chellis et al. (hereinafter "Chellis"). Independent Claim 1 is directed to a method of modifying at least one of bandwidth and Quality of Service (QoS) for a user session in a network and recites, in part:

receiving a request at at least one of the NSP and the ASP to change at least one of bandwidth and QoS associated with the user's session; and
using Application Programming Interface (API) calls at at least one of the NSP and the ASP to communicate with the RAN to modify the at least one of bandwidth and QoS associated with the user's session.

Claims 19, 37, and 55 include similar recitations. According to the independent claims, the Network Service Provider (NSP), Application Service Provider (ASP), or both receive a request to change bandwidth, QoS, or both for a user's session. API calls or messaging interface calls

are used to communicate with a Regional Access Network (RAN) to make the requested modification.

As a preliminary point, Applicants note that Chellis relates to automatically allocating resources in response to a request. (Chellis, Abstract; col. 4, lines 28 - 33). Chellis does not appear to disclose receiving a request to change bandwidth or QoS for an existing user session and making the requested modification as recited in the independent claims. Instead, Chellis appears to be directed to allocating resources through a provisioning process, *i.e.*, to establish initial service for a requesting group, such as a consumer group. (Chellis, col. 15, line 35 - col. 16, line 23; FIG. 10).

Next, the independent claims recite the use of API calls (Claims 1, 19, and 37) or messaging interface calls (Claim 55) at an NSP and/or ASP to communicate with a RAN to modify bandwidth and/or QoS for a user session. The Office Action cites the Abstract in Chellis as disclosing use of API calls as recited in Claims 1, 19, and 37. (Office Action, page 3). Applicants respectfully disagree. Chellis' Abstract states: "...the system includes an Application Programming Interface (API) operable to configure and/or control the one or more components for automatically allocating one or more resources." Thus, Chellis' API is used to configure components for the automatic allocation of resources. These "components" appear to be the resource request manager 40 and the resource allocator 30 shown in FIG. 2 of Chellis, which are not described in Chellis as being part of a RAN. The Abstract is the only reference to an API in Chellis. Therefore, Chellis does not disclose using an API to communicate with a RAN, *i.e.*, a network to modify bandwidth and/or QoS for a user session.

With respect to independent Claim 55, the Office Action cites the Abstract in Chellis as disclosing the use of messaging interface calls. Applicants submit that, for at least the same reasons discussed above with respect to the use of API calls in Claims 1, 19, and 37, Chellis does not disclose using messaging interface calls to communicate with a RAN to modify bandwidth and/or QoS for a user session.

Independent Claims 1, 19, 37, and 55 further recite that communication is made with a RAN to modify the bandwidth or QoS associated with a user session. In sharp contrast, Chellis discloses in FIG. 10 a resource management service 220, provisioning framework 240, data center operations 250, and feedback analysis function 260 that are used for allocating resources.

(Chellis, col. 15, lines 35 - 55). Chellis does not appear to disclose, however, that any of these modules/functions are part of an NSP and/or ASP.

For at least the foregoing reasons, Applicants respectfully submit that independent Claims 1, 19, 37, and 55 are patentable over Chellis, and that dependent Claims 2 - 18, 20 - 36, and 38 - 54 are patentable at least by virtue of their depending from an allowable claim.

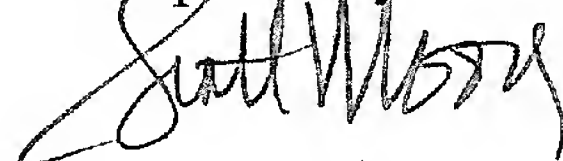
Various Dependent Claims are Separately Patentable

Claims 2 - 18, 20 - 36, and 38 - 54 also stand rejected as anticipated by Chellis. These claims depend from independent Claims 1, 19, and 37, respectively, and are allowable for at least the reasons discussed above. Many of these claims, however, are separately patentable. For example, as discussed above, Chellis does not disclose communicating between an NSP and/or ASP and a RAN to modify the bandwidth and/or QoS associated with a user session. Accordingly, Chellis does not disclose any of the details of such communication as recited, for example, in Claims 5 - 17, 23 - 35, and 31 - 53. Applicants, therefore, submit that Claims 5 - 17, 23 - 35, and 31 - 53 are separately patentable for at least these additional reasons.

CONCLUSION

In light of the above amendments remarks, Applicants respectfully submit that the above-entitled application is now in condition for allowance. Favorable reconsideration of this application, as amended, is respectfully requested. If, in the opinion of the Examiner, a telephonic conference would expedite the examination of this matter, the Examiner is invited to call the undersigned attorney at (919) 854-1400.

Respectfully submitted,



D. Scott Moore

Registration No. 42,011

Myers Bigel Sibley & Sajovec, P.A.
P. O. Box 37428
Raleigh, North Carolina 27627
Telephone: (919) 854-1400
Facsimile: (919) 854-1401
Customer Number 20792

CERTIFICATION OF TRANSMISSION

I hereby certify that this correspondence is being transmitted via the Office electronic filing system in accordance with § 1.6(a)(4) to the U.S. Patent and Trademark Office on September 18, 2007.

Signature: 
Rosa Lee Brinson